

APPEAL NO. 010322

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 24, 2000, with the record closing on December 29, 2000. The unresolved issues were:

1. Did Claimant [respondent] sustain a compensable injury while in the course and scope of her employment?
2. Did Claimant have disability from December 22, 1999, through March 3, 2000?

The hearing officer determined that the claimant sustained compensable injuries to her low back and right hip while in the course and scope of her employment and that "Claimant's left Achilles tendinitis and mild plantar fascitis are compensable follow on injuries." The hearing officer also found that claimant had disability from December 21, 1999, through February 19, 2000, "and from June 24, 2000, through August 12, 2000." The appellant (carrier) appeals, contending "extent of injury was not an issue for the [CCH]." The appeals file does not contain a response from the claimant.

DECISION

Affirmed as reformed.

On _____, the claimant fell, injuring her right hip and low back. In April 2000, the claimant sought treatment from Dr. A, a podiatrist, for left heel pain. Dr. A diagnosed the claimant's left heel condition as "achilles's tendinitis and mild plantar fascitis." The hearing officer determined that the Achilles tendinitis and mild plantar fascitis were caused by the claimant's "inability to bear weight on the injured right hip and lower extremity."

Neither party appeals the determination that the claimant suffered a compensable injury to her low back and right hip on _____. However, the carrier argues that the hearing officer erroneously found that the claimant's compensable injury included a "follow on" injury to her left heel. There was no express issue on extent of injury.

We have encouraged hearing officers to indicate the nature of the injury when determining whether an injury existed. However, we have also stated that it is not appropriate for a hearing officer to make a final determination on the issue of extent of injury when the issue of extent of injury is not before the hearing officer and is not necessary to resolve the other issues before the hearing officer. See Texas Workers' Compensation Commission Appeal No. 002898, decided January 29, 2001, and Texas Workers' Compensation Commission Appeal No. 001239, decided July 13, 2000.

In the present case, the issues before the hearing officer were whether the claimant sustained a compensable injury and had disability for the period of December 22, 1999, through March 3, 2000. The hearing officer identified the compensable injury as including the low back, right hip, and a follow-on, Achilles tendinitis and plantar fasciitis injury. We affirm the hearing officer's decision on this issue as resolving the issue before her.

However, regarding the period of disability, the only issue before the hearing officer was disability between December 22, 1999, and March 3, 2000. The hearing officer's findings of disability from June 24 through August 12, 2000, exceeded the scope of the issue before her. We reform the hearing officer's decision to reflect that the claimant had disability from _____, through February 19, 2000, but strike all language in her decision regarding disability from June 24, 2000, through August 12, 2000, as exceeding the scope of the issue before her. However, we make no determination that would prevent the claimant from properly asserting her disability for the follow-on injury at a subsequent dispute resolution proceeding.

The decision and order of the hearing officer are affirmed as reformed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Judy L. S. Barnes
Appeals Judge